

109TH CONGRESS  
2D SESSION

# S. 2486

To ensure that adequate actions are taken to detect, prevent, and minimize the consequences of chemical releases that result from terrorist attacks and other criminal activity that may cause substantial harm to public health and safety and the environment.

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## IN THE SENATE OF THE UNITED STATES

MARCH 30, 2006

Mr. LAUTENBERG (for himself, Mr. OBAMA, Mr. KERRY, Mr. MENENDEZ, Mr. DURBIN, and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To ensure that adequate actions are taken to detect, prevent, and minimize the consequences of chemical releases that result from terrorist attacks and other criminal activity that may cause substantial harm to public health and safety and the environment.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chemical Security and  
5 Safety Act of 2006”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the Federal Bureau of Investigation, the  
4 Department of Justice, the Department of Home-  
5 land Security, the Government Accountability Office,  
6 the Environmental Protection Agency, the Congres-  
7 sional Research Service, and the Agency for Toxic  
8 Substances and Disease Registry believe that the  
9 possibility of terrorist and criminal attacks on chem-  
10 ical plants poses a serious threat to public health  
11 and safety and the environment;

12 (2) there are significant opportunities to pre-  
13 vent harmful consequences of criminal attacks on  
14 chemical plants by employing inherently safer tech-  
15 nologies in the manufacture and use of chemicals;

16 (3) inherently safer technologies may offer in-  
17 dustry substantial savings by reducing the need for  
18 site security, secondary containment, buffer zones,  
19 mitigation, evacuation plans, regulatory compliance,  
20 and liability insurance; and

21 (4) owners and operators of chemical plants  
22 have a general duty to design, operate, and maintain  
23 safe facilities to prevent criminal activity that may  
24 result in harm to public health or safety or the envi-  
25 ronment.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Environ-  
5 mental Protection Agency.

6 (2) CLASSIFIED INFORMATION.—The term  
7 “classified information” has the meaning given the  
8 term in section 1 of the Classified Information Pro-  
9 cedures Act (18 U.S.C. App.).

10 (3) COMMITTEE.—The term “Committee”  
11 means a committee established under section 7(a).

12 (4) COMMITTEE-ELIGIBLE EMPLOYEE.—The  
13 term “committee-eligible employee” means an em-  
14 ployee who—

15 (A) is not an independent contractor, sub-  
16 contractor, or consultant;

17 (B) is not employed by an off-site company  
18 affiliated with the owner or operator of the rel-  
19 evant stationary source; and

20 (C) does not have supervisory or manage-  
21 rial responsibilities at the relevant stationary  
22 source.

23 (5) COMMITTEE-ELIGIBLE STATIONARY  
24 SOURCE.—The term “committee-eligible stationary  
25 source” means a stationary source that has 15 or  
26 more full-time equivalent employees.

1           (6) CRIMINAL RELEASE.—The term “criminal  
2 release” means—

3           (A) a release of a substance of concern  
4 from a stationary source into the environment  
5 that is caused, in whole or in part, by a crimi-  
6 nal act, including an act of terrorism; and

7           (B) a release into the environment of a  
8 substance of concern that has been removed  
9 from a stationary source, in whole or in part,  
10 by a criminal act, including an act of terrorism.

11          (7) DESIGN, OPERATION, AND MAINTENANCE  
12 OF SAFE FACILITIES.—The term “design, operation,  
13 and maintenance of safe facilities” means, with re-  
14 spect to the facilities at a stationary source, the  
15 practices of preventing or reducing the possibility of  
16 releasing a substance of concern—

17           (A) through use of inherently safer tech-  
18 nology, to the maximum extent practicable;

19           (B) through secondary containment, con-  
20 trol, or mitigation equipment, to the maximum  
21 extent practicable;

22           (C) by—

23           (i) making the facilities impregnable  
24 to intruders, to the maximum extent prac-  
25 ticable; and

1 (ii) improving site security and em-  
2 ployee training, to the maximum extent  
3 practicable;

4 (D) through the use of buffer zones be-  
5 tween the stationary source and surrounding  
6 populations (including buffer zones between the  
7 stationary source and residences, schools, hos-  
8 pitals, senior centers, shopping centers and  
9 malls, sports and entertainment arenas, public  
10 roads and transportation routes, and other pop-  
11 ulation centers);

12 (E) through increased coordination with  
13 State and local emergency officials, law enforce-  
14 ment agencies, and first responders, to the  
15 maximum extent practicable; and

16 (F) through outreach to the surrounding  
17 community, to the maximum extent practicable.

18 (8) EMPLOYEE.—

19 (A) IN GENERAL.—Except as provided in  
20 subparagraph (B), the term “employee” means  
21 any individual employed by the owner or oper-  
22 ator of a stationary source that produces, proc-  
23 esses, handles, or stores a substance of concern.

24 (B) TRAINING.—For purposes of section 8,  
25 the term “employee” includes any employee of

1 a construction or maintenance contractor work-  
2 ing at a stationary source that produces, proc-  
3 esses, handles, or stores a substance of concern.

4 (9) EMPLOYEE REPRESENTATIVE.—The term  
5 “employee representative” means a duly recognized  
6 collective bargaining representative at a stationary  
7 source.

8 (10) EMPLOYER.—The term “employer” in-  
9 cludes—

10 (A) an employee of any employer, agent,  
11 contractor, or subcontractor subject to the pro-  
12 visions of this Act or engaged in the production,  
13 storage, security or transportation of a harmful  
14 chemical; and

15 (B) an employee, agent, contractor, or sub-  
16 contractor of the Department of Homeland Se-  
17 curity or any other Federal, State, or local gov-  
18 ernment agency with responsibility for enforcing  
19 any provision of this Act.

20 (11) FIRST RESPONDER.—The term “first re-  
21 sponder” includes Federal, State, and local emer-  
22 gency public safety, law enforcement, emergency re-  
23 sponse, and emergency medical (including hospital  
24 emergency facilities) agencies and authorities.

1           (12) OUTREACH TO THE SURROUNDING COM-  
2           MUNITY.—The term “outreach to the surrounding  
3           community” includes education of residents near a  
4           stationary source regarding—

5                   (A) emergency procedures in the case of a  
6           terrorist attack;

7                   (B) evacuation procedures, routes, and  
8           travel times; and

9                   (C) what actions to take to minimize expo-  
10          sure to and physical harm caused by substances  
11          of concern.

12          (13) OWNER OR OPERATOR.—The term “owner  
13          or operator of a stationary source” means any per-  
14          son who owns, leases, controls, or supervises a sta-  
15          tionary source.

16          (14) SECRETARY.—The term “Secretary”  
17          means the Secretary of Homeland Security.

18          (15) STATIONARY SOURCE.—The term “sta-  
19          tionary source” has the meaning given the term in  
20          section 112(r)(2) of the Clean Air Act (42 U.S.C.  
21          7412(r)(2)) and includes any chemical facility des-  
22          ignated by the Secretary under section 5(d) of this  
23          Act.

24          (16) SUBSTANCE OF CONCERN.—The term  
25          “substance of concern” means any substance listed

1 under section 112(r)(3) of the Clean Air Act (42  
2 U.S.C. 7412(r)(3)) in a threshold quantity or any  
3 other substance designated by the Secretary under  
4 section 5(d) of this Act in a threshold quantity.

5 (17) THRESHOLD QUANTITY.—The term  
6 “threshold quantity” means, with respect to a sub-  
7 stance, the quantity established for the substance—

8 (A) under section 112(r)(5) of the Clean  
9 Air Act (42 U.S.C. 7412(r)(5)); or

10 (B) by the Secretary under section 5(d) of  
11 this Act.

12 (18) USE OF INHERENTLY SAFER TECH-  
13 NOLOGY.—

14 (A) IN GENERAL.—The term “use of in-  
15 herently safer technology” means use of a tech-  
16 nology, product, raw material, or practice that,  
17 as compared to the technology, products, raw  
18 materials, or practices currently in use—

19 (i) significantly reduces or eliminates  
20 the possibility of the release of a substance  
21 of concern; and

22 (ii) significantly reduces or eliminates  
23 the hazards to public health and safety and  
24 the environment associated with the release



1 or potential release of a substance de-  
2 scribed in clause (i).

3 (B) INCLUSIONS.—The term “use of inher-  
4 ently safer technology” includes chemical sub-  
5 stitution, process redesign, product reformula-  
6 tion, and procedural and technological modifica-  
7 tion so as to—

8 (i) use less hazardous or benign sub-  
9 stances;

10 (ii) use a smaller quantity of a sub-  
11 stance of concern;

12 (iii) moderate pressures or tempera-  
13 tures;

14 (iv) reduce the likelihood and poten-  
15 tial consequences of human error;

16 (v) improve inventory control and  
17 chemical use efficiency; and

18 (vi) reduce or eliminate storage,  
19 transportation, handling, disposal, and dis-  
20 charge of substances of concern.

21 **SEC. 4. PREVENTION OF CRIMINAL RELEASES.**

22 (a) GENERAL DUTY.—Each owner and each operator  
23 of a stationary source that produces, processes, handles,  
24 or stores any substance of concern has a general duty,  
25 in the same manner and to the same extent as the duty

1 imposed under section 112(r) of the Clean Air Act (42  
2 U.S.C. 7412(r)), to—

3 (1) identify hazards that may result from a  
4 criminal release using appropriate hazard assess-  
5 ment techniques;

6 (2) ensure the design, operation, and mainte-  
7 nance of safe facilities by taking such actions as are  
8 necessary to prevent criminal releases; and

9 (3) eliminate or significantly reduce the con-  
10 sequences of any criminal release that does occur.

11 (b) WORKER PARTICIPATION.—In carrying out its  
12 general duty to identify hazards under subsection (a), the  
13 owner or operator of a stationary source shall involve the  
14 employees of the stationary source in each aspect of ensur-  
15 ing the design, operation, and maintenance of safe facili-  
16 ties.

17 **SEC. 5. DESIGNATION AND REGULATION OF HIGH PRI-**  
18 **ORITY CATEGORIES BY THE SECRETARY.**

19 (a) IN GENERAL.—Not later than 6 months after the  
20 date of enactment of this Act, the Secretary, in consulta-  
21 tion with the Administrator and State and local govern-  
22 ment agencies responsible for planning for and responding  
23 to criminal releases and providing emergency health care,  
24 shall promulgate regulations to designate certain sta-  
25 tionary sources and substances of concern as high priority

1 categories, based on the severity of the threat posed by  
2 a criminal release from the stationary sources.

3 (b) FACTORS TO BE CONSIDERED.—

4 (1) IN GENERAL.—In designating high priority  
5 categories under subsection (a), the Secretary, in  
6 consultation with the Administrator, shall consider—

7 (A) the severity of the harm that could be  
8 caused by a criminal release;

9 (B) the proximity to population centers;

10 (C) the threats to national security;

11 (D) the threats to critical infrastructure;

12 (E) threshold quantities of substances of  
13 concern that pose a serious threat; and

14 (F) such other safety or security factors as  
15 the Secretary, in consultation with the Adminis-  
16 trator, determines to be appropriate.

17 (2) INDIVIDUAL CONSIDERATION.—In design-  
18 ating high priority categories under subsection (a),  
19 the Secretary shall consider each stationary source  
20 individually and shall not summarily exclude any  
21 type of stationary source that would otherwise be  
22 considered a high priority under paragraph (1).

23 (3) INITIAL DESIGNATION.—In designating high  
24 priority categories for the first time under sub-  
25 section (a), the Secretary shall ensure that not fewer

1       than 3,000 stationary sources are within a high pri-  
2       ority category.

3       (c) REQUIREMENTS FOR HIGH PRIORITY CAT-  
4       EGORIES.—

5           (1) IN GENERAL.—Not later than 1 year after  
6       the date of enactment of this Act, the Secretary, in  
7       consultation with the Administrator, the United  
8       States Chemical Safety and Hazard Investigation  
9       Board, and the State and local government agencies  
10      described in subsection (a), shall promulgate regula-  
11      tions to require each owner or operator of a sta-  
12      tionary source that is within a high priority category  
13      designated under subsection (a), in consultation with  
14      local law enforcement, first responders, employees,  
15      and employee representatives, to take adequate ac-  
16      tions (including the design, operation, and mainte-  
17      nance of safe facilities) to detect, prevent, and elimi-  
18      nate or significantly reduce the consequences of ter-  
19      rorist attacks and other criminal releases that may  
20      cause harm to public health or safety.

21          (2) SOURCE REPORTS.—Not later than 6  
22      months after the date on which regulations are pro-  
23      mulgated under paragraph (1), each owner or oper-  
24      ator of a stationary source that is within a high pri-

1 ority category designated under subsection (a) shall  
2 submit a report to the Secretary that includes—

3 (A) an assessment of the vulnerability of  
4 the stationary source to a terrorist attack or  
5 other criminal release;

6 (B) an assessment of the hazards that may  
7 result from a criminal release of a substance of  
8 concern using appropriate hazard assessment  
9 techniques;

10 (C) a prevention, preparedness, and re-  
11 sponse plan that incorporates the results of the  
12 vulnerability and hazard assessments under  
13 subparagraphs (A) and (B), respectively;

14 (D) a statement as to how the prevention,  
15 preparedness, and response plan meets the re-  
16 quirements of the regulations established under  
17 paragraph (1);

18 (E) a statement as to how the prevention,  
19 preparedness, and response plan meets the gen-  
20 eral duty requirements under section 4(a);

21 (F) a discussion of the consideration of the  
22 elements of design, operation, and maintenance  
23 of safe facilities, including the practicability of  
24 implementing each element;

1 (G) a statement describing how and when  
2 employees and employee representatives (if any)  
3 were consulted in considering the design, oper-  
4 ation, and maintenance of safe facilities and in  
5 preparing the report under this paragraph.

6 (d) ADDITION OF SUBSTANCES OF CONCERN OR STA-  
7 TIONARY SOURCES.—For the purpose of designating high  
8 priority categories under subsection (a) or any subsequent  
9 revision of the regulations promulgated under subsection  
10 (c)(1), the Secretary, in consultation with the Adminis-  
11 trator, may designate—

12 (1) any additional substance that, in a specified  
13 threshold quantity, poses a serious threat as a sub-  
14 stance of concern; or

15 (2) any chemical facility as a stationary source.

16 (e) REVIEW AND REVISION OF REGULATIONS.—Not  
17 later than 5 years after the dates of promulgation of regu-  
18 lations under each of subsections (a) and (c)(1), and not  
19 less often than every 5 years thereafter, the Secretary, in  
20 consultation with the Administrator, shall review the regu-  
21 lations and make any necessary revisions.

22 **SEC. 6. REVIEW AND CERTIFICATION OF REPORTS.**

23 (a) IN GENERAL.—The Secretary, in consultation  
24 with the Administrator, shall review each report submitted  
25 under section 5(c)(2) to determine whether the stationary

1 source covered by the report is in compliance with regula-  
2 tions promulgated under section 5(c)(1).

3 (b) CERTIFICATION OF COMPLIANCE.—

4 (1) IN GENERAL.—The Secretary shall certify  
5 each determination under subsection (a) in writing.

6 (2) INCLUSIONS.—A certification under para-  
7 graph (1) indicating the stationary source is in com-  
8 pliance with the regulations under section 5(c)(1)  
9 shall include a checklist indicating the consideration  
10 by such stationary source of the use of each element  
11 of design, operation, and maintenance of safe facili-  
12 ties.

13 (c) DEADLINE FOR COMPLETION.—

14 (1) HIGHEST PRIORITY STATIONARY  
15 SOURCES.—Not later than 6 months after the date  
16 on which reports are required to be submitted under  
17 section 5(c)(2), the Secretary shall complete the re-  
18 view and certification of the 600 highest priority sta-  
19 tionary sources designated under section 5(a).

20 (2) OTHER HIGH PRIORITY STATIONARY  
21 SOURCES.—Not later than 2 years after the date on  
22 which reports are required to be submitted under  
23 section 5(c)(2), the Secretary shall complete the re-  
24 view and certification of all reports submitted under  
25 that section.

1 (d) COMPLIANCE ASSISTANCE.—

2 (1) DEFINITION.—In this subsection, the term  
3 “determination” means a determination by the Sec-  
4 retary that, with respect to a report submitted under  
5 section 5(c)(2)—

6 (A) the report does not comply with regu-  
7 lations promulgated under section 5(c)(1);

8 (B) a threat exists that is beyond the scope  
9 of the plan submitted with the report; or

10 (C) the implementation of the plan sub-  
11 mitted with the report is insufficient.

12 (2) DETERMINATION BY SECRETARY.—If the  
13 Secretary, after consultation with the Administrator,  
14 makes a determination, the Secretary shall—

15 (A) notify the stationary source of the de-  
16 termination; and

17 (B) in coordination with the Administrator  
18 and the United States Chemical Safety and  
19 Hazard Investigation Board, provide advice and  
20 technical assistance to bring the stationary  
21 source into compliance.

22 (e) RECERTIFICATION.—Not later than 3 years after  
23 the date of submission of a report under section 5(c)(2),  
24 and not less often than every 2 years thereafter, the owner



1 or operator of the stationary source covered by the report,  
2 shall—

3 (1) review the adequacy of the report;

4 (2) certify to the Secretary that the stationary  
5 source has completed the review; and

6 (3) as appropriate, submit to the Secretary any  
7 changes to the assessments or plan in the report.

8 **SEC. 7. SAFETY AND SECURITY COMMITTEES.**

9 (a) IN GENERAL.—Not later than 6 months after the  
10 date of promulgation of regulations under section 5(a), the  
11 owner or operator of a committee-eligible stationary source  
12 shall establish a safety and security committee for that  
13 stationary source.

14 (b) COMMITTEE COMPOSITION.—

15 (1) IN GENERAL.—A Committee shall be com-  
16 posed of committee-eligible employees and manage-  
17 rial employees.

18 (2) MEMBERSHIP.—

19 (A) NUMBER OF MEMBERS.—

20 (i) IN GENERAL.—The Secretary, in  
21 consultation with the Administrator, shall  
22 promulgate regulations establishing the  
23 number of members of a Committee that  
24 are required.

1 (ii) CONTENTS.—The regulations pro-  
2 mulgated under clause (i) shall—

3 (I) establish a number of mem-  
4 bers of a Committee that is directly  
5 proportional to the number of employ-  
6 ees at a committee-eligible stationary  
7 source; and

8 (II) permit the number of mem-  
9 bers of a Committee to be increased  
10 above that established by regulation  
11 by mutual agreement between com-  
12 mittee-eligible employees and manage-  
13 rial employees.

14 (B) RATIO.—The number of committee-eli-  
15 gible employees serving as members of a Com-  
16 mittee shall be equal to or greater than the  
17 number of managerial employees serving as  
18 members.

19 (C) ALTERNATES.—An alternate member  
20 of a Committee may be designated if a member  
21 of a Committee is temporarily unavailable.

22 (D) PLACE OF EMPLOYMENT.—All mem-  
23 bers of a Committee shall be employed at the  
24 committee-eligible stationary source for which  
25 the Committee was established.

1           (3) SELECTION OF COMMITTEE-ELIGIBLE EM-  
2       PLOYEE MEMBERS.—

3           (A) IN GENERAL.—At a committee-eligible  
4       stationary source that has an employee rep-  
5       resentative, the employee representative shall  
6       select the committee-eligible employee members  
7       of the Committee.

8           (B) NO EMPLOYEE REPRESENTATIVES.—

9           (i) IN GENERAL.—At a committee-eli-  
10      gible stationary source that does not have  
11      an employee representative, the owner or  
12      operator of the committee-eligible sta-  
13      tionary source shall actively solicit volun-  
14      teers from among committee-eligible em-  
15      ployees who may potentially be exposed to  
16      a substance of concern.

17          (ii) INSUFFICIENT VOLUNTEERS.—If  
18      there is not a sufficient number of volun-  
19      teers under clause (i), the owner or oper-  
20      ator of the committee-eligible stationary  
21      source shall select additional committee-eli-  
22      gible employees to serve as members of the  
23      Committee.

24          (4) CO-CHAIRPERSONS.—A member of a Com-  
25      mittee who is a committee-eligible employee and a

1 member of a Committee who is a managerial em-  
2 ployee shall serve as co-chairpersons of the Com-  
3 mittee.

4 (c) LISTS OF MEMBERS.—The owner or operator of  
5 a committee-eligible stationary source shall prominently  
6 post at the stationary source a current list of all members  
7 of the Committee of the stationary source that includes  
8 the name and work location of each member and whether  
9 each member is a committee-eligible employee or a mana-  
10 gerial employee.

11 (d) MEETINGS; QUORUMS; ACTION.—

12 (1) MEETINGS.—A Committee shall meet not  
13 less frequently than once per month at a time, date,  
14 and location agreed to by the Committee.

15 (2) QUORUM.—A majority of members of a  
16 Committee shall constitute a quorum for the trans-  
17 action of Committee business.

18 (3) ACTION.—Any action by a Committee shall  
19 require an affirmative vote of a majority of the  
20 members present.

21 (e) AUTHORITY.—A Committee shall—

22 (1) identify, discuss, and make recommenda-  
23 tions to the owner or operator of the committee-eli-  
24 ble stationary source concerning potential hazards

1 and risks relevant to security, safety, and health and  
2 potential responses to those hazards and risks;

3 (2) survey the facility of the committee-eligible  
4 stationary source for potential security, safety, and  
5 health vulnerabilities;

6 (3) establish a schedule to conduct, not less fre-  
7 quently than once per month, a survey described in  
8 paragraph (2) of all or part of the committee-eligible  
9 stationary source;

10 (4) as soon as is practicable, assist in the inves-  
11 tigation of an accident, criminal release, fire, explo-  
12 sion, or an incident in which there was a significant  
13 risk of an accident, criminal release, fire, or explo-  
14 sion; and

15 (5) participate in the development, review, or  
16 revision of any vulnerability assessment, hazard as-  
17 sessment, or prevention, preparedness, and response  
18 plan.

19 (f) RECOMMENDATIONS.—

20 (1) IN WRITING.—Any recommendations made  
21 by a Committee shall be made in writing.

22 (2) REVIEW.—At each meeting, a Committee  
23 shall review the status of any recommendation made  
24 by the Committee that the Committee has not deter-  
25 mined to be resolved.

1           (3) NONUNANIMOUS RECOMMENDATIONS.—If a  
2       recommendation of a Committee is not unanimous,  
3       the owner or operator of the committee-eligible sta-  
4       tionary source shall document the differing views of  
5       the members of the Committee and maintain records  
6       regarding any such recommendation.

7       (g) EXISTING COMMITTEES.—

8           (1) IN GENERAL.—A safety and health, envi-  
9       ronmental, or similar committee established at a  
10      committee-eligible stationary source before the date  
11      specified in subsection (a) that meets the require-  
12      ments of this section may be designated as the Com-  
13      mittee for the committee-eligible stationary source  
14      under a written agreement between the owner or op-  
15      erator of the committee-eligible stationary source  
16      and the employee representative of the committee-el-  
17      igible stationary source.

18          (2) NO EMPLOYEE REPRESENTATIVE.—If there  
19      is no employee representative at a committee-eligible  
20      stationary source, the owner or operator of a sta-  
21      tionary source may designate a safety and health,  
22      environmental or similar committee described in  
23      paragraph (1) as the Committee for the committee-  
24      eligible stationary source.

1 **SEC. 8. EMPLOYEE TRAINING.**

2 (a) IN GENERAL.—The owner or operator of a sta-  
3 tionary source shall annually provide each employee with  
4 4 hours of training—

5 (1) regarding the requirements of this Act, as  
6 applicable to the stationary source;

7 (2) identifying and discussing substances of  
8 concern that pose a risk to the community and first  
9 responders;

10 (3) discussing the prevention, preparedness,  
11 and response plan for the stationary source, includ-  
12 ing off-site consequence impacts;

13 (4) identifying opportunities to reduce or elimi-  
14 nate the vulnerability of a stationary source to a  
15 criminal release of a substance of concern through  
16 the use of the elements of design, operation, and  
17 maintenance of safe facilities; and

18 (5) discussing appropriate emergency response  
19 procedures.

20 (b) NONDUPLICATION.—Training provided under this  
21 section shall be in addition to any training required to be  
22 provided by the owner or operator of a stationary source  
23 under any other Federal or State law.

24 (c) DOCUMENTATION.—The owner or operator of a  
25 stationary source that is within a high priority category  
26 designated under section 5(a) shall—

1           (1) submit an annual written certification to  
2           the Secretary stating that the owner or operator has  
3           met the requirements for employee training under  
4           this section; and

5           (2) maintain a list of all employees who have  
6           received training under this section.

7   **SEC. 9. INSPECTIONS, MONITORING, ENTRY, AND RECORD-**  
8                   **KEEPING.**

9           (a) IN GENERAL.—For purposes of determining  
10 whether any owner or operator of a stationary source is  
11 in compliance with this Act or is properly carrying out  
12 any provision of this Act, the Secretary and the Adminis-  
13 trator (or a designee of the Secretary or the Adminis-  
14 trator) may take any action that the Administrator is au-  
15 thorized to take under paragraphs (7) and (9) of section  
16 112(r) and section 114 of the Clean Air Act (42 U.S.C.  
17 7412(r) and 7414).

18          (b) PROGRAM.—

19           (1) IN GENERAL.—The Secretary and the Ad-  
20 ministrator shall establish a program to conduct reg-  
21 ular inspections of stationary sources, and shall  
22 prioritize inspection of stationary sources that are  
23 within a high priority category designated under sec-  
24 tion 5(a).



1           (2) TYPES OF INSPECTION.—The program es-  
2     tablished under paragraph (1) shall—

3           (A) include inspections without notice and  
4     inspections with notice; and

5           (B) require that not fewer than 25 percent  
6     of inspections under the program shall be with-  
7     out notice.

8     (c) RECEIPT OF NOTICE.—

9           (1) IN GENERAL.—When providing notice to  
10    the owner or operator of a stationary source of an  
11    inspection or investigation under this Act, the Sec-  
12    retary or the Administrator (or a designee of the  
13    Secretary or the Administrator) shall instruct the  
14    owner or operator of the stationary source to, imme-  
15    diately upon receipt of the notification—

16           (A) post a notice, or a copy of any notice  
17           provided by the Secretary or the Administrator  
18           (or a designee of the Secretary or the Adminis-  
19           trator), indicating that there will be an inspec-  
20           tion or investigation, which shall be conspicu-  
21           ously displayed in the area of the stationary  
22           source subject to the inspection or investigation;  
23           and

1 (B) provide a copy of the notice posted  
2 under subparagraph (A) to an employee rep-  
3 resentative at the stationary source, if any.

4 (2) EXPLANATIONS.—

5 (A) IN GENERAL.—If the Secretary or the  
6 Administrator (or a designee of the Secretary  
7 or the Administrator) provides a written expla-  
8 nation of the purpose, scope, procedures,  
9 progress, or outcome of an inspection or inves-  
10 tigation under this Act to the owner or operator  
11 of a stationary source, any employee of that  
12 stationary source shall be entitled to view a  
13 copy of the written explanation.

14 (B) INSTRUCTIONS.—The Secretary or the  
15 Administrator (or a designee of the Secretary  
16 or the Administrator) shall instruct the owner  
17 or operator of a stationary source receiving a  
18 written explanation described in subparagraph  
19 (A) to, not later than 24 hours after receiving  
20 the written explanation—

21 (i) conspicuously display the written  
22 explanation in the area subject to the in-  
23 spection or investigation; and

- 1 (ii) provide a copy of the written ex-  
2 planation to an employee representative at  
3 the stationary source, if any.

4 (d) PROCEDURES.—

5 (1) PARTICIPATION BY EMPLOYEES.—

6 (A) IN GENERAL.—An official conducting  
7 an inspection or investigation of a stationary  
8 source under this Act shall instruct the owner  
9 or operator of the stationary source to afford  
10 the opportunity to participate in the inspection  
11 or investigation, and to accompany the official  
12 during the inspection or investigation to—

13 (i) an employee who works in, or is fa-  
14 miliar with, the portion of the facility  
15 being inspected or investigated; and

16 (ii) an employee representative of the  
17 employees of the stationary source, if ap-  
18 plicable.

19 (B) ADDITIONAL EMPLOYEES.—

20 (i) IN GENERAL.—Except as provided  
21 in clause (ii), an official described in sub-  
22 paragraph (A) may, if the official deter-  
23 mines that doing so will aid in the inspec-  
24 tion or investigation by the official, permit  
25 any additional employee representative of

1 the employees of the stationary source or  
2 any additional employee to accompany the  
3 official, including permitting a different  
4 employee, employee representative, or rep-  
5 resentative of the owner or operator of the  
6 stationary source to accompany the official  
7 during different phases of the inspection or  
8 investigation.

9 (ii) EXCEPTION.—Clause (i) shall not  
10 apply to portions of an inspection or inves-  
11 tigation in which an official described in  
12 subparagraph (A) is exclusively examining  
13 written records.

14 (C) MEETINGS.—If the official described  
15 in subparagraph (A) conducts a meeting with  
16 the management of a stationary source to ex-  
17 plain the purpose, scope, procedures, progress,  
18 or outcome of an inspection or investigation  
19 under this Act, the official shall instruct the  
20 owner or operator of the stationary source to  
21 invite to the meeting any employee and em-  
22 ployee representative that participated in the  
23 inspection or investigation. If the official deter-  
24 mines it is necessary, the official shall arrange  
25 and conduct a separate meeting with any em-

1           employee and employee representative that partici-  
2           pated in the inspection or investigation.

3           (2) EXCLUSION OF INDIVIDUALS.—An official  
4           conducting an inspection or investigation of a sta-  
5           tionary source under this Act may prohibit any indi-  
6           vidual whose conduct interferes with a fair and or-  
7           derly inspection or investigation from accompanying  
8           the official on the inspection or investigation.

9           (3) INTERVIEWS.—An official conducting an in-  
10          spection or investigation of a stationary source  
11          under this Act may—

12                (A) interview any person at the stationary  
13                source that the official determines is necessary  
14                to effectuate the purposes of this Act; and

15                (B) conduct any interview under subpara-  
16                graph (A) outside the presence of the owner or  
17                operator, manager, or other personnel of the  
18                stationary source, if determined to be appro-  
19                priate by the official.

20          (4) CLASSIFIED INFORMATION.—In the case of  
21          a stationary source that contains classified informa-  
22          tion, only persons who are authorized to have access  
23          to such information may accompany an official con-  
24          ducting an inspection or investigation of a stationary

1 source under this Act in areas of the stationary  
 2 source in which such information is located.

3 (e) RECORDKEEPING.—The owner or operator of a  
 4 stationary source that is required to submit a report under  
 5 section 5(c)(2) shall maintain on the premises of the sta-  
 6 tionary source a current copy of the report for the sta-  
 7 tionary source and any such report previously submitted.

8 **SEC. 10. ENFORCEMENT.**

9 (a) COMPLIANCE ORDERS.—

10 (1) ISSUANCE.—

11 (A) IN GENERAL.—If, after the date that  
 12 is 30 days after the date described in subpara-  
 13 graph (B), a stationary source is not in compli-  
 14 ance with this Act, the Secretary, in consulta-  
 15 tion with the Administrator, may issue an order  
 16 directing compliance by the owner or operator  
 17 of the stationary source.

18 (B) DATE.—The date described in this  
 19 subparagraph is—

20 (i) the date on which the Secretary  
 21 provides notice to a stationary source that  
 22 the stationary source is not in compliance  
 23 with this Act; or

24 (ii) if the failure to comply with this  
 25 Act relates to a report submitted under

1 section 5(c)(2), the later of the date on  
2 which the Secretary first provides assist-  
3 ance, or a stationary source receives notice,  
4 under section 6(d)(2).

5 (2) NOTICE AND OPPORTUNITY FOR HEAR-  
6 ING.—An order under paragraph (1) may be issued  
7 only after notice and opportunity for a hearing.

8 (b) PENALTIES.—

9 (1) CIVIL PENALTIES.—Any owner or operator  
10 of a stationary source that is within a high priority  
11 category designated under section 5(a) that violates,  
12 or fails to comply with, any order under subsection  
13 (a) may, in an action brought in a United States  
14 district court, be subject to a civil penalty of not  
15 more than \$50,000 for each day in which the viola-  
16 tion occurs or the failure to comply continues.

17 (2) CRIMINAL PENALTIES.—Any owner or oper-  
18 ator of a stationary source that is within a high pri-  
19 ority category designated under section 5(a) that  
20 knowingly violates, or fails to comply with, any order  
21 under subsection (a) shall—

22 (A) in the case of a first violation or fail-  
23 ure to comply, be fined not less than \$5,000  
24 nor more than \$50,000 per day of violation or

1 failure to comply, imprisoned for not more than  
2 2 years, or both; and

3 (B) in the case of a subsequent violation or  
4 failure to comply, be fined not less than  
5 \$10,000 nor more than \$50,000 per day of vio-  
6 lation or failure to comply, imprisoned for not  
7 more than 4 years, or both.

8 (3) ADMINISTRATIVE PENALTIES.—

9 (A) PENALTY ORDERS.—The Secretary, in  
10 consultation with the Administrator, may im-  
11 pose an administrative penalty order of not  
12 more than \$50,000 per day, and not more than  
13 a maximum of \$2,000,000 per year, for failure  
14 to comply with an order or directive issued by  
15 the Secretary under subsection (a).

16 (B) NOTICE AND HEARING.—Before  
17 issuing an order described in subparagraph (A),  
18 the Secretary shall provide to the person  
19 against which the penalty is to be assessed—

20 (i) written notice of the proposed  
21 order; and

22 (ii) the opportunity to request, not  
23 later than 30 days after the date on which  
24 the notice is received by the person, a  
25 hearing on the proposed order.



1 (c) ABATEMENT ACTIONS.—

2 (1) IN GENERAL.—If the Secretary, in consulta-  
3 tion with local law enforcement officials, determines  
4 that the threat of a terrorist attack exists that war-  
5 rants additional measures to prevent or reduce the  
6 possibility of releasing a substance of concern at 1  
7 or more stationary sources, the Secretary shall no-  
8 tify each such stationary source of the elevated  
9 threat.

10 (2) INSUFFICIENT RESPONSE.—If the Secretary  
11 determines that a stationary source has not taken  
12 appropriate action in response to a notification  
13 under paragraph (1), the Secretary shall notify the  
14 stationary source, the Administrator, and the Attor-  
15 ney General that actions taken by the stationary  
16 source in response to the notification are insuffi-  
17 cient.

18 (3) RELIEF.—

19 (A) IN GENERAL.—If the Secretary makes  
20 a notification under paragraph (2), the Sec-  
21 retary or the Attorney General may secure such  
22 relief as is necessary to abate a threat described  
23 in paragraph (1), including an order directing  
24 the stationary source to cease operation and

1           such other orders as are necessary to protect  
2           public health or welfare.

3           (B) JURISDICTION.—The United States  
4           district court for the district in which a threat  
5           described in paragraph (1) occurs shall have ju-  
6           risdiction to grant such relief as the Secretary  
7           or Attorney General requests under subpara-  
8           graph (A).

9   **SEC. 11. PROTECTION OF INFORMATION.**

10       (a) DISCLOSURE EXEMPTION.—Except with respect  
11       to certifications under section 6(b), orders issued under  
12       section 10(a), and best practices established under section  
13       13(4), all documents provided to the Secretary under this  
14       Act, and all information that describes a specific vulner-  
15       ability at a specific stationary source derived from those  
16       documents, shall be exempt from disclosure under section  
17       552 of title 5, United States Code.

18       (b) STATE AND LOCAL GOVERNMENT AGENCIES.—  
19       Notwithstanding any other provision of Federal, State, or  
20       local law, no State or local government agency shall be  
21       required to disclose any documents provided by a sta-  
22       tionary source under this Act, or any information that de-  
23       scribes a specific vulnerability at a specific stationary  
24       source derived from those documents, except with respect  
25       to certifications under section 6(b), orders issued under

1 section 10(a), and best practices established under section  
2 13(4).

3 (c) DEVELOPMENT OF PROTOCOLS.—

4 (1) IN GENERAL.—The Secretary, in consulta-  
5 tion with the Administrator, shall develop such pro-  
6 tocols as are necessary to protect the documents de-  
7 scribed in subsection (a), including the reports sub-  
8 mitted under section 5(c)(2) and the information  
9 contained in those reports, from unauthorized disclo-  
10 sure.

11 (2) DEADLINE.—As soon as is practicable, but  
12 not later than 1 year after the date of enactment of  
13 this Act, the Secretary shall complete the develop-  
14 ment of protocols under paragraph (1) and shall en-  
15 sure that the protocols are in effect before the date  
16 on which the Administrator receives any report  
17 under this Act.

18 (d) OTHER OBLIGATIONS UNAFFECTED.—Nothing  
19 in this section affects—

20 (1) the handling, treatment, or disclosure of in-  
21 formation obtained from a stationary source under  
22 any other law;

23 (2) any obligation of the owner or operator of  
24 a stationary source to submit or make available in-  
25 formation to a Federal, State, or local government

1 agency under, or otherwise to comply with, any  
2 other law; or

3 (3) the public disclosure of information derived  
4 from documents or information described in sub-  
5 section (a), so long as the information disclosed—

6 (A) would not divulge methods or processes  
7 entitled to protection as trade secrets in accord-  
8 ance with the purposes of section 1905 of title  
9 18, United States Code;

10 (B) does not identify any particular sta-  
11 tionary source; and

12 (C) is not reasonably likely to increase the  
13 probability or consequences of a criminal re-  
14 lease.

15 **SEC. 12. EMERGENCY PREPAREDNESS.**

16 (a) IN GENERAL.—Not later than 1 year after the  
17 date of enactment of this Act, the Secretary and the Ad-  
18 ministrator, in consultation with other Federal agencies  
19 and State and local government officials (including local  
20 law enforcement and first responders), shall promulgate  
21 regulations requiring stationary sources within high pri-  
22 ority categories to participate in emergency preparedness  
23 exercises, including “table top” exercises, training, drills  
24 (including evacuation drills), and other activities deter-

1 mined to be appropriate by the Secretary and Adminis-  
2 trator.

3 (b) CONSIDERATIONS.—The Secretary and Adminis-  
4 trator shall structure the emergency preparedness exer-  
5 cises under subsection (a), including the contents and fre-  
6 quency of the exercises, based on the threat posed to the  
7 public by a criminal release at a stationary source.

8 **SEC. 13. ASSISTANCE TO STATIONARY SOURCES.**

9 The Secretary, in consultation with the Adminis-  
10 trator, shall establish an information clearinghouse to as-  
11 sist stationary sources in complying with this Act that in-  
12 cludes scalable best practices for—

13 (1) using methodologies for the assessment of  
14 vulnerabilities, threats, and inherently safer tech-  
15 nology;

16 (2) developing prevention preparedness and re-  
17 sponse plans;

18 (3) coordinating with local law enforcement,  
19 first responders, and duly recognized collective bar-  
20 gaining representatives at stationary sources, or, in  
21 the absence of such a representative, other appro-  
22 priate personnel;

23 (4) implementing inherently safer technologies,  
24 including descriptions of—

1 (A) combinations of covered sources and  
2 substances of concern for which the inherently  
3 safer technologies could be appropriate;

4 (B) the scope of current use and avail-  
5 ability of the technologies;

6 (C) the costs and cost savings resulting  
7 from inherently safer technologies;

8 (D) technological transfer and business  
9 practices that enable or encourage inherently  
10 safer technologies; and

11 (E) such other information as the Sec-  
12 retary determines to be appropriate.

13 **SEC. 14. PROTECTION OF WHISTLEBLOWERS.**

14 (a) DISCRIMINATION AGAINST EMPLOYEE.—No em-  
15 ployer may discharge any employee or otherwise discrimi-  
16 nate against any employee with respect to compensation,  
17 terms, conditions, or privileges of employment because the  
18 employee (or any person acting pursuant to a request of  
19 the employee)—

20 (1) notified the employer, the Department of  
21 Homeland Security, or any other appropriate agency  
22 of Federal, State, or local government of an alleged  
23 violation of this Act or of a threat to the health or  
24 safety of the public relating to chemical security or  
25 the improper release of any harmful chemical;

1           (2) refused to engage in any practice made un-  
2       lawful by this Act, if the employee has identified the  
3       alleged illegality to the employer;

4           (3) testified before Congress or at any Federal  
5       or State proceeding regarding any provision of this  
6       Act or of a threat to the health or safety of the pub-  
7       lic relating to chemical security or the improper re-  
8       lease of any harmful chemical;

9           (4) commenced, caused to be commenced, or in-  
10      tends to commence or cause to be commenced a pro-  
11      ceeding under this Act, or a proceeding for the ad-  
12      ministration or enforcement of any requirement im-  
13      posed under this Act;

14          (5) testified or intends to testify in any pro-  
15      ceeding described in paragraph (4); or

16          (6) assisted or participated or intends to assist  
17      or participate in any manner in a proceeding de-  
18      scribed in paragraph (4) or in any other action to  
19      carry out the purposes of this Act.

20      (b) COMPLAINT, FILING, AND NOTIFICATION.—

21          (1) IN GENERAL.—Except as provided in sub-  
22      section (g), any employee who believes that such em-  
23      ployee has been discharged or otherwise discrimi-  
24      nated against by any person in violation of sub-  
25      section (a) may, not later than 180 days after the

1 date on which the violation occurred, file (or have  
2 any person file on behalf of such employee) a com-  
3 plaint with the Secretary of Labor alleging such dis-  
4 charge or discrimination. Upon receipt of such a  
5 complaint, the Secretary of Labor shall notify the  
6 Secretary and the person named in the complaint of  
7 the filing of the complaint.

8 (2) INVESTIGATION.—

9 (A) IN GENERAL.—Upon receipt of a com-  
10 plaint under paragraph (1), the Secretary of  
11 Labor shall conduct an investigation of the vio-  
12 lation alleged in the complaint.

13 (B) COMPLETION.—Not later than 30 days  
14 after the date on which the Secretary of Labor  
15 receives a complaint under paragraph (1), the  
16 Secretary of Labor shall—

17 (i) complete the investigation under  
18 subparagraph (A); and

19 (ii) notify the complainant (and any  
20 person acting on behalf of the complain-  
21 ant) and the person alleged to have com-  
22 mitted the violation, in writing, of the re-  
23 sults of the investigation.

24 (C) ORDER.—



1 (i) IN GENERAL.—Except as provided  
2 in clause (ii), not later than 90 days after  
3 the date on which the Secretary of Labor  
4 receives a complaint under paragraph (1),  
5 the Secretary of Labor shall issue an order  
6 that provides the relief prescribed by para-  
7 graph (3) or denies the complaint.

8 (ii) EXCEPTION.—Clause (i) shall not  
9 apply to a proceeding on a complaint de-  
10 scribed in clause (i) that is terminated by  
11 the Secretary of Labor on the basis of a  
12 settlement entered into by the Secretary of  
13 Labor and the person alleged to have com-  
14 mitted the violation of this section. The  
15 Secretary of Labor may not enter into a  
16 settlement terminating a proceeding on a  
17 complaint without the participation and  
18 consent of the complainant.

19 (iii) PROCEDURE.—An order of the  
20 Secretary of Labor under this subpara-  
21 graph shall be made on the record after  
22 notice and opportunity for public hearing.  
23 Upon the conclusion of the hearing and the  
24 issuance of a recommended decision that  
25 the complaint has merit, the Secretary of

1 Labor shall issue a preliminary order pro-  
2 viding the relief prescribed in paragraph  
3 (3), but may not order compensatory dam-  
4 ages, pending a final order.

5 (3) RELIEF.—

6 (A) IN GENERAL.—If the Secretary of  
7 Labor determines that a violation of subsection  
8 (a) alleged in a complaint under paragraph (1)  
9 of this subsection has occurred, the Secretary of  
10 Labor shall order the person who committed the  
11 violation to—

12 (i) take affirmative action to abate the  
13 violation; and

14 (ii) reinstate the complainant to the  
15 former position of such complainant, to-  
16 gether with the compensation (including  
17 back pay), terms, conditions, and privileges  
18 of the employment of such complainant.

19 (B) COMPENSATORY DAMAGES.—If the  
20 Secretary of Labor determines that a violation  
21 of subsection (a) alleged in a complaint under  
22 paragraph (1) of this subsection has occurred,  
23 the Secretary of Labor may order the person  
24 who committed the violation to provide compen-  
25 satory damages to the complainant.

1           (C) COSTS AND EXPENSES.—If an order is  
 2           issued under this paragraph, the Secretary of  
 3           Labor, at the request of the complainant, shall  
 4           assess against the person against whom the  
 5           order is issued a sum equal to the aggregate  
 6           amount of all costs and expenses (including at-  
 7           torneys' and expert witness fees) reasonably in-  
 8           curred by the complainant for, or in connection  
 9           with, the bringing of the complaint upon which  
 10          the order was issued, as determined by the Sec-  
 11          retary of Labor.

12          (D) REQUIRED FINDING.—The Secretary  
 13          of Labor may determine that a violation of sub-  
 14          section (a) has occurred only if the complainant  
 15          has demonstrated that any conduct described in  
 16          paragraphs (1) through (6) of subsection (a)  
 17          was a contributing factor in the unfavorable  
 18          personnel action alleged in the complaint.

19          (c) DISMISSAL.—

20          (1) IN GENERAL.—The Secretary of Labor shall  
 21          dismiss a complaint filed under subsection (b)(1),  
 22          and shall not conduct the investigation required  
 23          under subsection (b)(2), if the complainant has  
 24          failed to make a prima facie showing that any con-  
 25          duct described in paragraphs (1) through (6) of sub-

1 section (a) was a contributing factor in the unfavor-  
2 able personnel action alleged in the complaint.

3 (2) OTHER BASIS FOR ACTION.—Notwith-  
4 standing a finding by the Secretary of Labor that  
5 the complainant has made the showing required by  
6 paragraph (1), the Secretary of Labor shall dismiss  
7 a complaint filed under subsection (b)(1), and shall  
8 not conduct the investigation required under sub-  
9 section (b)(2), if the employer demonstrates, by clear  
10 and convincing evidence, that the employer would  
11 have taken the same unfavorable personnel action in  
12 the absence of the conduct described in paragraph  
13 (1) of this subsection.

14 (d) DISTRICT COURT REVIEW.—If, by the date that  
15 is 1 year after the date on which a complaint was filed  
16 under subsection (b)(1), the Secretary of Labor has not  
17 issued a final decision regarding the complaint and there  
18 is no showing that the delay is due to the bad faith of  
19 the complainant, the complainant may bring an action at  
20 law or equity for de novo review in an appropriate United  
21 States district court, which shall have jurisdiction over  
22 such an action without regard to the amount in con-  
23 troversy.

24 (e) REVIEW BY COURT OF APPEALS.—

1           (1) IN GENERAL.—Any person adversely af-  
2       fected or aggrieved by an order issued under sub-  
3       section (b) or (c) may obtain review of the order in  
4       the United States court of appeals for the circuit in  
5       which the violation alleged in the complaint oc-  
6       curred.

7           (2) TIMING.—A petition for review under para-  
8       graph (1) shall be filed not later than 60 days after  
9       the date on which the order described in paragraph  
10      (1) is issued.

11          (3) PROCEDURES.—The procedures under  
12      chapter 7 of title 5, United States Code shall apply  
13      to any review under this subsection.

14          (4) STAYS.—Unless ordered by the court, the  
15      commencement of proceedings under this subsection  
16      shall not operate as a stay of the order of the Sec-  
17      retary of Labor.

18          (5) EXCLUSIVITY.—An order of the Secretary  
19      of Labor with respect to which review could have  
20      been obtained under paragraph (1) shall not be the  
21      subject of judicial review in any criminal or other  
22      civil proceeding.

23      (f) ENFORCEMENT.—

24          (1) BY THE SECRETARY OF LABOR.—

1 (A) IN GENERAL.—If a person has failed  
2 to comply with an order issued under subsection  
3 (b)(2)(C), the Secretary of Labor may file a  
4 civil action in the United States district court  
5 for the district in which the violation occurred  
6 to enforce the order.

7 (B) SCOPE OF RELIEF.—In an action  
8 brought under this paragraph, the United  
9 States district court may grant all appropriate  
10 relief, including injunctive relief, compensatory  
11 and exemplary damages.

12 (2) OTHER ENFORCEMENT.—

13 (A) IN GENERAL.—Not earlier than the  
14 date that is 90 days after an order was issued  
15 under subsection (b)(2)(C), any person on  
16 whose behalf the order was issued may com-  
17 mence a civil action against the person to whom  
18 the order was issued in any appropriate United  
19 States district court to require compliance with  
20 the order.

21 (B) JURISDICTION.—The United States  
22 district court shall have jurisdiction, without re-  
23 gard to the amount in controversy or the citi-  
24 zenship of the parties, to enforce an order de-  
25 scribed in subparagraph (A).

1 (C) SCOPE OF RELIEF.—In an action  
 2 brought under this paragraph, the United  
 3 States district court may award costs of litigation  
 4 (including reasonable attorney and expert  
 5 witness fees).

6 (3) MANDAMUS.—Any nondiscretionary duty  
 7 imposed under this section shall be enforceable in a  
 8 mandamus proceeding under section 1361 of title  
 9 28, United States Code.

10 (g) DELIBERATE VIOLATIONS.—Subsection (b)(1)  
 11 shall not apply with respect to any employee who, acting  
 12 without direction from the employer of such employee, de-  
 13 liberately causes a violation of any requirement of this Act.

14 (h) NONPREEMPTION.—Nothing in this section ex-  
 15 pands, preempts, diminishes, or otherwise affects any  
 16 right otherwise available to an employee under Federal,  
 17 State, or local law or any collective bargaining agreement  
 18 to redress the discharge of such employee or other dis-  
 19 criminatory action taken by the employer against such em-  
 20 ployee.

21 (i) WHISTLEBLOWER INFORMATION.—

22 (1) DHS.—The Secretary, in consultation with  
 23 the Secretary of Labor, shall establish and publicize  
 24 information regarding mechanisms (including a hot-  
 25 line and a website) through which any person (in-

cluding an employee, individual residing near a stationary source, first responder, and local official) may report an alleged violation of this Act, a threat to the health or safety of the public relating to chemical security or the improper release of any harmful chemical, or other such information.

(2) POSTING REQUIREMENT.—The provisions of this section shall be prominently posted in any place of employment to which this Act applies.

(j) INVESTIGATION OF ALLEGATIONS.—

(1) IN GENERAL.—The Secretary shall not delay taking appropriate action with respect to an allegation of a substantial safety hazard on the basis of—

(A) the filing of a complaint under subsection (b)(1) arising from the allegation; or

(B) any investigation by the Secretary of Labor, or other action, under this subsection in response to a complaint under subsection (b)(1).

(2) EFFECT OF DETERMINATION.—A determination by the Secretary of Labor under this section that a violation of subsection (a) has not occurred shall not be considered by the Secretary in



1       determining whether a substantial safety hazard ex-  
2       ists.

3   **SEC. 15. REGULATIONS.**

4       (a) COORDINATION WITH EXISTING LAW.—In pro-  
5   mulgating regulations and establishing enforcement proce-  
6   dures under this Act, the Secretary, in consultation with  
7   the Administrator, shall, to the extent practicable and to  
8   the extent such requirements meet or exceed the require-  
9   ments of this Act, minimize duplication of the require-  
10   ments for risk assessments and response plans under  
11   chapter 701 of title 46, United States Code (commonly  
12   known as “the Maritime Transportation Security Act”),  
13   the Clean Air Act (42 U.S.C. 7401 et seq.), and other  
14   Federal law.

15       (b) PROMULGATION OF ADDITIONAL REGULA-  
16   TIONS.—In addition to any regulations required under this  
17   Act, the Secretary and the Administrator may promulgate  
18   such regulations as are necessary to carry out this Act.

19   **SEC. 16. NO EFFECT ON REQUIREMENTS UNDER OTHER**  
20       **LAW OR AGREEMENTS.**

21       Nothing in this Act affects any duty or other require-  
22   ment imposed under any other Federal, State, or local law  
23   or any collective bargaining agreement.

1 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated to the Sec-  
3 retary and the Administrator such sums as are necessary  
4 to carry out this Act, to remain available until expended.

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